

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

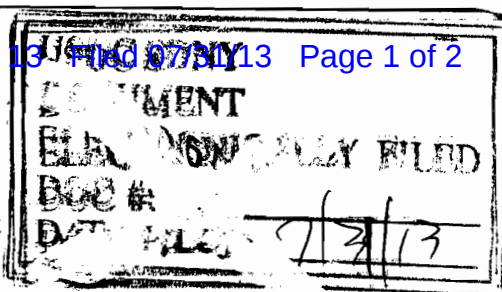
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DAMIAN BROWN,

Petitioner,

-v-

UNITED STATES OF AMERICA,

Respondent.
----- x



: 11 Civ. 7797 (JSR) (GWG)
: 05 Cr. 538 (JSR)

: ORDER

JED S. RAKOFF, U.S.D.J.

On April 5, 2013, the Honorable Gabriel W. Gorenstein, United States Magistrate Judge, issued a Report and Recommendation in the above-captioned matter, recommending that the Court deny petitioner Damian Brown's petition filed pursuant to 28 U.S.C. § 2255. Subsequently, on April 16, 2013, petitioner submitted objections to certain portions of the Report and Recommendation. Accordingly, the Court has reviewed the petition and the underlying record de novo.

Having done so, the Court finds itself in complete agreement with Magistrate Judge Gorenstein's Report and Recommendation and hereby adopts its reasoning by reference. Accordingly, the Court dismisses the petition in all respects. In addition, because petitioner has not made a substantial showing of the denial of a constitutional right, a certificate of appealability will not issue. See 28 U.S.C. § 2253. Moreover, the Court certifies that any appeal from this Order would not be taken in good faith, as petitioner's claims lack any arguable basis in law or fact, and therefore permission to proceed in forma pauperis is also denied. See 28 U.S.C. § 1915(a)(3); see also Seimon v.

Emigrant Savs. Bank (In re Seimon), 421 F.3d 167, 169 (2d Cir. 2005).

Clerk to enter judgment.

SO ORDERED.



JED S. RAKOFF, U.S.D.J.

Dated: New York, New York
July 29, 2013